

**Executive Summary – Enforcement Matter – Case No. 48024**  
**City of Mason**  
**RN101240836**  
**Docket No. 2013-2177-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Mason PWS, located at the intersection of Lincoln Avenue and Cardinal Street, Mason, Mason County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 21, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$690

**Amount Deferred for Expedited Settlement:** \$690

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 48024**  
**City of Mason**  
**RN101240836**  
**Docket No. 2013-2177-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 18, 2013

**Date(s) of NOE(s):** December 4, 2013

***Violation Information***

1. Failed to comply with the maximum contaminant level ("MCL") of 15 picoCuries per liter ("pCi/L") for gross alpha particle activity based on the running annual average [30 TEX. ADMIN. CODE § 290.108(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to comply with the MCL of 5 pCi/L for combined radium-226 and radium-228, based on the running annual average [30 TEX. ADMIN. CODE § 290.108(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 120 days, update an existing feasibility study and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for gross alpha particle activity and combined radium-226 and radium-228. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after the effective date of this Agreed Order. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study.
- b. Within 135 days, submit written certification to demonstrate compliance with Ordering Provision a.
- c. Within 180 days, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology.

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d. Within 180 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the MCL for gross alpha particle activity and combined radium-226 and radium-228.

e. Within 195 days, submit written certification to demonstrate compliance with Ordering Provision c.

f. Within 1,095 days:

i. Return to compliance with the MCL for gross alpha particle activity; and

ii. Return to compliance with the MCL for combined radium-226 and radium-228.

g. Within 1,110 days, submit written certification to demonstrate compliance with Ordering Provisions f.i. and f.ii.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Brent Hinckley, Mayor, City of Mason, P.O. Box 68, Mason, Texas 76856

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES**

**Assigned  
PCW**

9-Dec-2013

12-Dec-2013

**Screening**

12-Dec-2013

**EPA Due**

30-Sep-2013

## RESPONDENT/FACILITY INFORMATION

**Respondent** City of Mason

**Reg. Ent. Ref. No.** RN101240836

**Facility/Site Region** 8-San Angelo

**Major/Minor Source** Major

## CASE INFORMATION

**Enf./Case ID No.** 48024

**Docket No.** 2013-2177-PWS-E

**Media Program(s)** Public Water Supply

**Multi-Media**

**No. of Violations** 2

**Order Type** Findings

**Government/Non-Profit** Yes

**Enf. Coordinator** Yuliya Dunaway

**EC's Team** Enforcement Team 2

**Admin. Penalty \$ Limit Minimum** \$50

**Maximum** \$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$600

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

15.0% Enhancement

**Subtotals 2, 3, & 7**

\$90

**Notes**

Enhancement for three NOVs with same/similar violations.

**Culpability**

No

0.0% Enhancement

**Subtotal 4**

\$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5**

\$0

**Economic Benefit**

0.0% Enhancement\*

**Subtotal 6**

\$0

Total EB Amounts \$12,435  
Approx. Cost of Compliance \$40,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal**

\$690

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

0.0%

**Adjustment**

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

\$690

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

\$690

**DEFERRAL**

0.0%

Reduction

**Adjustment**

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

\$690

Screening Date 12-Dec-2013

Docket No. 2013-2177-PWS-E

PCW

Respondent City of Mason

Policy Revision 3 (September 2011)

Case ID No. 48024

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101240836

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for three NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 15%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 15%

Screening Date 12-Dec-2013

Docket No. 2013-2177-PWS-E

PCW

Respondent City of Mason

Policy Revision 3 (September 2011)

Case ID No. 48024

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101240836

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.108(f)(1) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 15 picoCuries per liter ("pCi/L") for gross alpha particle activity, based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for gross alpha particle activity was 16 pCi/L for the fourth quarter of 2012, 18 pCi/L for the first quarter of 2013, and 19 pCi/L for the second quarter of 2013.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for gross alpha particle activity caused the customers of the Facility to be exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 1

272 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$300

One annual event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$12,435

Violation Final Penalty Total \$345

This violation Final Assessed Penalty (adjusted for limits) \$345

# Economic Benefit Worksheet

**Respondent** City of Mason  
**Case ID No.** 48024  
**Reg. Ent. Reference No.** RN101240836  
**Media** Public Water Supply  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40,000	31-Dec-2012	9-Jun-2017	4.44	\$592	\$11,843	\$12,435
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount for the Facility to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for combined radium-226 and radium-228, and gross alpha particle activity, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$40,000

**TOTAL**

\$12,435



Screening Date 12-Dec-2013

Docket No. 2013-2177-PWS-E

PCW

Respondent City of Mason

Policy Revision 3 (September 2011)

Case ID No. 48024

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101240836

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.108(f)(1) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to comply with the MCL of 5 pCi/L for combined radium-226 and radium-228, based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for combined radium-226 and radium-228 was 6 pCi/L for the second quarter of 2013.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for combined radium-226 and radium-228 caused the customers of the Facility to be exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 1

90 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	X
	single event	

Violation Base Penalty \$300

One annual event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$345

This violation Final Assessed Penalty (adjusted for limits) \$345

# Economic Benefit Worksheet

**Respondent** City of Mason  
**Case ID No.** 48024  
**Reg. Ent. Reference No.** RN101240836  
**Media** Public Water Supply  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs are captured in the economic benefit associated with violation no. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600678221, RN101240836, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600678221, City of Mason	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	2.47
<b>Regulated Entity:</b>	RN101240836, CITY OF MASON	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	INTERSECTION OF LINCOLN AVENUE AND CARDINAL ST, MASON, MASON COUNTY, TX				
<b>TCEQ Region:</b>	REGION 08 - SAN ANGELO				
<b>ID Number(s):</b>					
<b>PUBLIC WATER SYSTEM/SUPPLY</b>	REGISTRATION 1600001	<b>WATER LICENSING</b>	LICENSE 1600001		
<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013	<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	December 09, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	December 09, 2008 to December 09, 2013				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Yuliya Dunaway		<b>Phone:</b>	(210) 403-4077	

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , when did the change(s) in owner or operator occur?                              | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/07/2013	(1134152)	CN600678221
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.108(f)(1)		

Description: GA MCL 4Q2012 - The system violated the maximum contaminant level for gross alpha during the fourth quarter of 2012 with a RAA of 16 pCi/L.

2 Date: 07/17/2013 (1134152) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
Description: GA MCL 1Q2013 - The system violated the maximum contaminant level for gross alpha during the first quarter of 2013 with a RAA of 18 pCi/L.

3 Date: 09/09/2013 (1134152) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
Description: COMB RAD MCL 2Q2013 - The system violated the maximum contaminant level for combined radium 226 and 228 during the second quarter of 2013 with a RAA of 6 pCi/L.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

## Appendix A

## All NOVs Issued During Component Period 12/9/2008 and 12/9/2013

- 1 Date: 05/20/2009 (743933) CN600678221  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)  
Description: Failure to employ at least two operators who hold a Class "C" or higher groundwater license and who each work at least 16 hours per month for the City of Mason.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to calibrate the flow meters at the wells.
- 2 Date: 06/17/2010 (827207) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for combined radium 226 and 228 during the third quarter of 2009.
- 3 Date: 06/17/2010 (829998) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for combined radium 226 and 228 during the fourth quarter of 2009.
- 4 Date: 01/13/2012 (970017) CN600678221  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
Description: Failure to provide an adequate overflow cover.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
Description: Failure to provide an adequate water level indicator.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)  
Description: Failure to exclude livestock in pastures from within 50 feet of water supply wells.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to maintain an up-to-date Monitoring Plan.
- 5\* Date: 05/07/2013 (1134152) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
Description: GA MCL 4Q2012 - The system violated the maximum contaminant level for gross alpha during the fourth quarter of 2012 with a RAA of 16 pCi/L.
- 6\* Date: 07/17/2013 (1134152) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
Description: GA MCL 1Q2013 - The system violated the maximum contaminant level for gross alpha during the first quarter of 2013 with a RAA of 18 pCi/L.
- 7 Date: 09/09/2013 (1134152) CN600678221  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
Description: COMB RAD MCL 2Q2013 - The system violated the maximum contaminant level for combined radium 226 and 228 during the second quarter of 2013 with a RAA of 6 pCi/L.

\* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

## Appendix B

### All Investigations Conducted During Component Period December 09, 2008 and December 09, 2013

Item 1	January 05, 2009**	(722396)
Item 2	May 14, 2009**	(743933)
Item 3	June 29, 2009**	(747972)
Item 4	August 20, 2009**	(766499)
Item 5	December 18, 2009**	(785586)
Item 6	March 19, 2010**	(795874)
Item 7	May 07, 2010**	(800379)
Item 8	June 17, 2010**	(827207)
Item 9	August 09, 2010**	(843622)
Item 10	January 13, 2012**	(970017)
Item 11	April 13, 2012**	(994630)
Item 12	December 05, 2013	(1134152)
Item 13	December 06, 2013	(1135044)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF MASON  
RN101240836

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2013-2177-PWS-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Mason ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at the intersection of Lincoln Avenue and Cardinal Street in Mason, Mason County, Texas (the "Facility") that has approximately 1,292 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on November 18, 2013, TCEQ staff documented that the running annual average concentration for gross alpha particle activity was 16 picoCuries per liter ("pCi/L") for the fourth quarter of 2012, 18 pCi/L for the first quarter of 2013 and 19 pCi/L for the second quarter of 2013.
3. During a record review conducted on November 18, 2013, TCEQ staff documented that the running annual average concentration for combined radium-226 and radium-228 was 6 pCi/L for the second quarter of 2013.
4. The Respondent received notice of the violations on December 12, 2013.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 15 pCi/L for gross alpha particle activity, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.108(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 5 pCi/L for combined radium-226 and radium-228, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.108(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Six Hundred Ninety Dollars (\$690) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Six Hundred Ninety Dollars (\$690) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the Executive Director may require the Respondent to pay all or part of the deferred administrative penalty.



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Hundred Ninety Dollars (\$690) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Mason, Docket No. 2013-2177-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 120 days after the effective date of this Agreed Order, update an existing feasibility study and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for gross alpha particle activity and combined radium-226 and radium-228. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after the effective date of this Agreed Order. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study. The evaluation shall be sent to the addresses in listed in Ordering Provision No. 2.g.;
  - b. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below to demonstrate compliance with Ordering Provision No. 2.a.;
  - c. Within 180 days after the effective date of this Agreed Order, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology to the addresses listed in Ordering Provision No. 2.g.;

- d. Within 180 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.g. below. These reports shall include information regarding actions taken to provide water which meets the MCL for gross alpha particle activity and combined radium-226 and radium-228;
- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below to demonstrate compliance with Ordering Provision No. 2.c.;
- f. Within 1,095 days after the effective date of this Agreed Order:
  - i. Return to compliance with the MCL for gross alpha particle activity, in accordance with 30 TEX. ADMIN. CODE § 290.108; and
  - ii. Return to compliance with the MCL for combined radium-226 and radium-228, in accordance with 30 TEX. ADMIN. CODE § 290.108;
- g. Within 1,110 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.f.i. and 2.f.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and to:

Technical Review and Oversight Team  
Water Supply Division, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

5/26/14  
Date

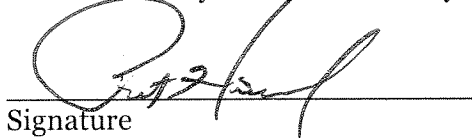
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Mason. I am authorized to agree to the attached Agreed Order on behalf of the City of Mason, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Mason waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

February 14, 2014  
Date

Brent Hinckley  
Name (Printed or typed)  
Authorized Representative of  
City of Mason

Mayor  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order